

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
ADVANCED ANALYTICS, INC.

Plaintiff,

against

CITIGROUP GLOBAL MARKETS, INC., et al.,

Defendants.

CIVIL ACTION NO.: 04 Civ. 3531 (LTS) (SLC)

ORDER

WHEREAS, on August 19, 2019, the American Prospect and Brandon Smith (collectively, the “Proposed Intervenor”) filed their Motion to Intervene and Unseal Court Records (the “Motion”) (ECF No. 328);

WHEREAS, on September 3, 2019, Defendants Citigroup Global Markets, Inc. and The Yield Book, Inc. (collectively, “Defendants”) notified the Court that Defendants and the Proposed Intervenor had agreed that Defendants’ response to the Motion would be due October 4, 2019;

WHEREAS, Plaintiff Advanced Analytics, Inc. (“Plaintiff” and, together with Defendants, the “Parties”) has not filed a response to the Motion;

WHEREAS, Plaintiff, Defendants, and the Proposed Intervenor are engaged in discussions to determine whether they are able to resolve the Motion without intervention from the Court;

WHEREAS, while reserving all rights, Proposed Intervenor and Defendants will work together to determine whether they are able to identify any additional sealed filings that

Defendants agree to provide as a Permitted Filing (as defined herein);

WHEREAS, on October 3, 2019, a prior version of this Order was filed as a stipulation between Defendants and the Proposed Intervenors (the “Stipulation”) (ECF No. 350);

WHEREAS, on October 11, 2019, Plaintiff submitted a letter to the Court raising certain issues regarding the Stipulation (ECF No. 352);

WHEREAS, at a hearing held on November 12, 2019, the Parties agreed to certain modifications in order to address Plaintiff’s concerns regarding the Stipulation;

WHEREAS, on November 15, 2019, the Court issued an Order (ECF No. 380) ordering the resubmission of the Stipulation with certain additional modifications; and

WHEREAS, the Plaintiff, Defendants, and the Proposed Intervenors were unable to amicably finalize the Stipulation;

NOW, THEREFORE, it is hereby **ORDERED**:

1. The Court adjourns sine die Plaintiff and Defendants’ deadline to respond to the Motion, subject to paragraph 7, infra.
2. The Proposed Intervenors are authorized to receive any filings that the Parties have agreed do not contain Confidential Discovery Material as defined in the Stipulation and Protective Order Governing Confidential Material, dated March 22, 2005 (ECF No. 25) or that have such Confidential Discovery Material redacted (any such filing, a “Permitted Filing”). Any information received by Proposed Intervenors pursuant to this paragraph 1 shall be deemed public information, with no restriction on the disclosure or publication of such information.
3. By **Tuesday, November 26, 2019**, Defendants will provide the Proposed

Intervenors with the following documents with any Confidential Discovery Material redacted:

(i) Memorandum of Law of Defendants Citigroup Global Markets, Inc. and the Yield Book Inc. in Support of Their Motion for Summary Judgment, dated April 5, 2013; (ii) Plaintiff's Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment Pursuant to May 7, 2014 Order, dated May 28, 2014; (iii) Reply Memorandum of Law of Defendants Citigroup Global Markets, Inc. and the Yield Book Inc. in Support of Their Motion for Summary Judgment, dated February 23, 2014; (iv) Plaintiff's Memorandum of Law in Support of its Motion for Sanctions Pursuant to F.R.C.P. 56(h) and the Court's Inherent Power Against Defendants and Defense Counsel Cleary Gottlieb Steen & Hamilton LLP, dated June 27, 2019; and (v) Memorandum of Law in Support of Defendants (I) Motion to Strike Plaintiff's Rule 56(h) Motion and (II) Motion for Sanctions, dated July 11, 2019, provided however that Defendants shall not be in violation of their obligations under this paragraph 3 if, before November 5, 2019, Defendants notify the Proposed Intervenors that they have sought, but not yet received, Plaintiff's confirmation that the Permitted Filings redact Plaintiff's Confidential Discovery Information (if any).

4. Any party, as well as Proposed Intervenors, are authorized to file the Permitted Filings, with any Confidential Discovery Information redacted, on the publicdocket.

5. The Proposed Intervenors agree that any Permitted Filings provided to the Proposed Intervenors is subject to Federal Rule of Evidence 408, for the limited purpose of resolving the Motion, and that the production of any Permitted Filings shall not constitute a waiver by Plaintiff or Defendants of any rights or defenses, including with respect to their opposition to the Motion in the event the Parties and the Proposed Intervenors are unable to

resolve the matter amicably.

6. Defendants and Proposed Intervenor agree that no party, nor the Proposed Intervenor, shall be deemed to have waived any rights or defenses by providing or accepting a Permitted Filing pursuant to this Order, nor shall anything in this Order affect the rights or defenses of any party, or the Proposed Intervenor, with respect to the continued sealing of currently sealed filings including, without limitation, exhibits filed in support of a motion.

7. In the event that Plaintiff, Defendants, and the Proposed Intervenor are not able to resolve the motion to unseal amicably, Plaintiff, Defendants, and the Proposed Intervenor are **ORDERED** to jointly notify the Court by **Thursday, December 19, 2019**, via ECF, and Plaintiff and Defendants must respond to the Motion by **Thursday, January 9, 2020**.

8. The Clerk of Court is respectfully directed to close Plaintiff's Letter-Motion for Discovery (ECF No. 385) as improperly filed.

Dated: New York, New York
November 19, 2019

SO ORDERED

A handwritten signature in cursive script, appearing to read "Sarah L. Cave", is written over a horizontal line.

SARAH L. CAVE
United States Magistrate Judge